

34. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
SMITH OF NEW JERSEY, OR
HIS DESIGNEE, DEBATABLE FOR 10 MINUTES:

**AMENDMENT TO H.R. 1950, AS REPORTED
OFFERED BY MR. SMITH OF NEW JERSEY**

Add at the end of the bill the following new division
(and conform the table of contents accordingly):

**1 DIVISION C—ASSISTANCE FOR
2 VIET NAM
3 TITLE XX—CONDITIONS ON IN-
4 CREASED NONHUMANI-
5 TARIAN ASSISTANCE TO THE
6 GOVERNMENT OF VIET NAM**

7 SEC. 2001. BILATERAL NONHUMANITARIAN ASSISTANCE.

8 (a) ASSISTANCE.—

9 (1) IN GENERAL.—United States nonhumani-
10 tarian assistance may not be provided to the Govern-
11 ment of Viet Nam in an amount exceeding the
12 amount so provided for fiscal year 2003—

13 (A) for fiscal year 2004 unless not later
14 than 30 days after the date of the enactment of
15 this Act the President determines and certifies
16 to Congress that the requirements of subpara-
17 graphs (A) through (D) of paragraph (2) have
18 been met during the 12-month period ending
19 on the date of the certification; and



1 (B) for each subsequent fiscal year unless
2 the President determines and certifies to Con-
3 gress in the most recent annual report sub-
4 mitted pursuant to section 501 that the re-
5 quirements of subparagraphs (A) through (E)
6 of paragraph (2) have been met during the 12-
7 month period covered by the report.

8 (2) REQUIREMENTS.—The requirements of this
9 paragraph are that—

10 (A) the Government of Viet Nam has made
11 substantial progress toward releasing all polit-
12 ical and religious prisoners from imprisonment,
13 house arrest, and other forms of detention;

14 (B)(i) the Government of Viet Nam has
15 made substantial progress toward respecting
16 the right to freedom of religion, including the
17 right to participate in religious activities and in-
18 stitutions without interference by or involve-
19 ment of the Government; and

20 (ii) has made substantial progress to-
21 ward returning estates and properties con-
22 fiscated from the churches;

23 (C) the Government of Viet Nam has made
24 substantial progress toward allowing Viet-



1 nameese nationals free and open access to
2 United States refugee programs;

3 (D) the Government of Viet Nam has
4 made substantial progress toward respecting
5 the human rights of members of ethnic minority
6 groups in the Central Highlands and elsewhere
7 in Viet Nam; and

8 (E)(i) neither any official of the Govern-
9 ment of Viet Nam nor any agency or entity
10 wholly or partly owned by the Government of
11 Viet Nam was complicit in a severe form of
12 trafficking in persons; or

13 (ii) the Government of Viet Nam took
14 all appropriate steps to end any such com-
15 plicity and hold such official, agency, or
16 entity fully accountable for its conduct.

17 (b) EXCEPTION.—

18 (1) CONTINUATION OF ASSISTANCE IN THE NA-
19 TIONAL INTEREST.—Notwithstanding the failure of
20 the Government of Viet Nam to meet the require-
21 ments of subsection (a)(2), the President may waive
22 the application of subsection (a) for any fiscal year
23 if the President determines that the provision to the
24 Government of Viet Nam of increased United States
25 nonhumanitarian assistance would promote the pur-



1 poses of this Act or is otherwise in the national in-
2 terest of the United States.

3 (2) EXERCISE OF WAIVER AUTHORITY.—The
4 President may exercise the authority under para-
5 graph (2) with respect to—

6 (A) all United States nonhumanitarian as-
7 sistance to Viet Nam; or

8 (B) one or more programs, projects, or ac-
9 tivities of such assistance.

10 (c) DEFINITIONS.—In this section:

11 (1) SEVERE FORM OF TRAFFICKING IN PER-
12 SONS.—The term “severe form of trafficking in per-
13 sons” means any activity described in section 103(8)
14 of the Trafficking Victims Protection Act of 2000
15 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C.
16 7102(8)).

17 (2) UNITED STATES NONHUMANITARIAN AS-
18 SISTANCE.—The term “United States nonhumani-
19 tarian assistance” means—

20 (A) any assistance under the Foreign As-
21 sistance Act of 1961 (including programs under
22 title IV of chapter 2 of part I of that Act, relat-
23 ing to the Overseas Private Investment Cor-
24 poration), other than—



1 (i) disaster relief assistance, including
2 any assistance under chapter 9 of part I of
3 that Act;

4 (ii) assistance which involves the pro-
5 vision of food (including monetization of
6 food) or medicine; and

7 (iii) assistance for refugees; and

8 (B) sales, or financing on any terms, under
9 the Arms Export Control Act.

10 **TITLE XXI—ASSISTANCE TO SUP-**
11 **PORT HUMAN RIGHTS AND**
12 **DEMOCRACY IN VIET NAM**

13 **SEC. 2101. ASSISTANCE.**

14 (a) IN GENERAL.—The President is authorized to
15 provide assistance, through appropriate nongovernmental
16 organizations, for the support of individuals and organiza-
17 tions to promote democracy and internationally recognized
18 human rights in Viet Nam.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the President to carry
21 out subsection (a) \$2,000,000 for each of the fiscal years
22 2004 and 2005.



1 **TITLE XXII—UNITED STATES**
2 **PUBLIC DIPLOMACY**

3 **SEC. 2201. RADIO FREE ASIA TRANSMISSIONS TO VIET NAM.**

4 (a) **POLICY OF THE UNITED STATES.**—It is the pol-
5 icy of the United States to take such measures as are nec-
6 essary to overcome the jamming of Radio Free Asia by
7 the Government of Viet Nam, including the active pursuit
8 of broadcast facilities in close geographic proximity to Viet
9 Nam.

10 (b) **AUTHORIZATION OF APPROPRIATIONS.**—In addi-
11 tion to such amounts as are otherwise authorized to be
12 appropriated for the Broadcasting Board of Governors,
13 there are authorized to be appropriated to carry out the
14 policy under subsection (a) \$9,100,000 for the fiscal year
15 2004 and \$1,100,000 for the fiscal year 2005.

16 **SEC. 2202. UNITED STATES EDUCATIONAL AND CULTURAL**
17 **EXCHANGE PROGRAMS WITH VIET NAM.**

18 It is the policy of the United States that programs
19 of educational and cultural exchange with Viet Nam
20 should actively promote progress toward freedom and de-
21 mocracy in Viet Nam by providing opportunities to Viet-
22 namese nationals from a wide range of occupations and
23 perspectives to see freedom and democracy in action and,
24 also, by ensuring that Vietnamese nationals who have al-



1 ready demonstrated a commitment to these values are in-
2 cluded in such programs.

3 **TITLE XXIII—UNITED STATES**
4 **REFUGEE POLICY**

5 **SEC. 2301. REFUGEE RESETTLEMENT FOR NATIONALS OF**
6 **VIET NAM.**

7 (a) **POLICY OF THE UNITED STATES.**—It is the pol-
8 icy of the United States to offer refugee resettlement to
9 nationals of Viet Nam (including members of the
10 Montagnard ethnic minority groups) who were eligible for
11 the Orderly Departure Program (ODP), Resettlement Op-
12 portunities for Vietnamese Returnees (ROVR) or any
13 other United States refugee program and who were
14 deemed ineligible due to administrative error or who for
15 reasons beyond the control of such individuals (including
16 insufficient or contradictory information or the inability
17 to pay bribes demanded by officials of the Government of
18 Viet Nam) were unable or failed to apply for such pro-
19 grams in compliance with deadlines imposed by the De-
20 partment of State.

21 (b) **AUTHORIZED ACTIVITY.**—Of the amounts au-
22 thorized to be appropriated to the Department of State
23 for Migration and Refugee Assistance for each of the fiscal
24 years 2004, 2005, and 2006, such sums as may be nec-
25 essary are authorized to be made available for the protec-



1 tion (including resettlement in appropriate cases) of Viet-
2 namese refugees and asylum seekers, including
3 Montagnards in Cambodia.

4 **TITLE XIV—ANNUAL REPORT ON**
5 **PROGRESS TOWARD FREE-**
6 **DOM AND DEMOCRACY IN**
7 **VIET NAM**

8 **SEC. 2401. ANNUAL REPORT.**

9 (a) IN GENERAL.—Not later than 6 months after the
10 date of the enactment of this Act and every 12 months
11 thereafter, the Secretary of State shall submit to the Con-
12 gress a report on the following:

13 (1)(A) The determination and certification of
14 the President that the requirements of section
15 2001(a)(2) have been met, if applicable.

16 (B) The determination of the President
17 under section 2001(b)(2), if applicable.

18 (2) Efforts by the United States Government to
19 secure transmission sites for Radio Free Asia in
20 countries in close geographical proximity to Viet
21 Nam in accordance with section 2201(a).

22 (3) Efforts to ensure that programs with Viet
23 Nam promote the policy set forth in section 302 and
24 with section 102 of the Human Rights, Refugee, and
25 Other Foreign Policy Provisions Act of 1996 regard-



1 ing participation in programs of educational and cul-
2 tural exchange.

3 (4) Steps taken to carry out the policy under
4 section 2301(a).

5 (5) Lists of persons believed to be imprisoned,
6 detained, or placed under house arrest, tortured, or
7 otherwise persecuted by the Government of Viet
8 Nam due to their pursuit of internationally recog-
9 nized human rights. In compiling such lists, the Sec-
10 retary shall exercise appropriate discretion, including
11 concerns regarding the safety and security of, and
12 benefit to, the persons who may be included on the
13 lists and their families. In addition, the Secretary
14 shall include a list of such persons and their families
15 who may qualify for protection under United States
16 refugee programs.

17 (6) A description of the development of the rule
18 of law in Viet Nam, including, but not limited to—

19 (A) progress toward the development of in-
20 stitutions of democratic governance;

21 (B) processes by which statutes, regula-
22 tions, rules, and other legal acts of the Govern-
23 ment of Viet Nam are developed and become
24 binding within Viet Nam;

1 (C) the extent to which statutes, regula-
2 tions, rules, administrative and judicial deci-
3 sions, and other legal acts of the Government of
4 Viet Nam are published and are made acces-
5 sible to the public;

6 (D) the extent to which administrative and
7 judicial decisions are supported by statements
8 of reasons that are based upon written statutes,
9 regulations, rules and other legal acts of the
10 Government of Viet Nam;

11 (E) the extent to which individuals are
12 treated equally under the laws of Viet Nam
13 without regard to citizenship, race, religion, po-
14 litical opinion, or current or former associa-
15 tions;

16 (F) the extent to which administrative and
17 judicial decisions are independent of political
18 pressure or governmental interference and are
19 reviewed by entities of appellate jurisdiction;
20 and

21 (G) the extent to which laws in Viet Nam
22 are written and administered in ways that are
23 consistent with international human rights
24 standards, including the requirements of the



1 International Covenant on Civil and Political
2 Rights.

3 (b) CONTACTS WITH OTHER ORGANIZATIONS.— In
4 preparing the report under subsection (a), the Secretary
5 shall, as appropriate, consult with and seek input from
6 nongovernmental organizations, human rights advocates
7 (including Vietnamese-Americans and human rights advo-
8 cates in Viet Nam), and the United States Commission
9 on Religious Freedom.

